

TOWN OF DAVIE
TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: Giovanni Moss, Acting Director, Housing and Community Development (954) 797-1226

PREPARED BY: Giovanni Moss, Acting Director, Housing and Community Development

SUBJECT: Design Service Agreement

AFFECTED DISTRICT: Townwide

ITEM REQUEST: Schedule for Council Meeting

TITLE OF AGENDA ITEM: A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT BETWEEN THE TOWN OF DAVIE AND CPZ ARCHITECT'S, INC., FOR THE EXPENDITURE OF 2005 DISASTER RECOVERY INITIATIVES GENERATORS FOR ESSENTIAL PUBLIC FACILITIES PROGRAM FUNDS IN THE TOTAL AMOUNT OF \$83,950 TO PROVIDE FOR DESIGN SERVICES FOR THE INSTALLATION OF EMERGENCY GENERATORS AT FIVE (5) TOWN ESSENTIAL PUBLIC FACILITIES; AND PROVIDING AN EFFECTIVE DATE.

REPORT IN BRIEF: The Town of Davie received 2005 Disaster Recovery Initiatives funds in the total amount of \$3,309,741. A portion of those funds totaling \$789,741 have been allocated for Generators for Essential Public Facilities Project. On November 5, 2008 the Town Council approved Resolution No. 2008-249 authorizing the Town Administrator or his designee to negotiate an agreement with CPZ Architect's, Inc., for design services for the project. CPZ Architect's, Inc. have agreed to provide such services for a fee of \$83,950.

PREVIOUS ACTIONS: 2005 CDBG DRI Project Budget/Narratives approved as part of the Consolidated Plan for Federal Funds 2007-2012 by Resolution R-2007-197 on July 26, 2007 and the Agreement between Broward County and Town of Davie was approved by Resolution R-2007-263 on September 19, 2007, and Resolution No 2008-249

CONCURRENCES:

FISCAL IMPACT: Yes

Has request been budgeted? Yes

If yes, expected cost: \$ 789,741 in CDBG DRI budgeted for entire project

RECOMMENDATION(S): Approve Resolution

Attachment(s): Agreement, CPZ Design Services Proposal, Resolution

RESOLUTION_____

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE TOWN MAYOR TO EXECUTE AN AGREEMENT BETWEEN THE TOWN OF DAVIE AND CPZ ARCHITECT'S, INC., FOR THE EXPENDITURE OF 2005 DISASTER RECOVERY INITIATIVES GENERATORS FOR ESSENTIAL PUBLIC FACILITIES PROGRAM FUNDS IN THE TOTAL AMOUNT OF \$83,950 TO PROVIDE FOR DESIGN SERVICES FOR THE INSTALLATION OF EMERGENCY GENERATORS AT FIVE (5) TOWN ESSENTIAL PUBLIC FACILITIES.

WHEREAS, the Town of Davie has received 2005 Disaster Recovery Funds in the total amount of \$3,309,741; and

WHEREAS, a portion of those funds totaling \$789,741 have been allocated for emergency generators at five (5) essential public facilities; and

WHEREAS, the Town's selection committee selected CPZ Architect's, Inc. as the firm best qualified to provide design services for the emergency generators for public facilities; and

WHEREAS, the Town Council by Resolution No. 2008-249 authorized the Town Administrator or his designee to negotiate an agreement for services; and

WHEREAS, CPZ Architect's, Inc. has agreed to provide design services for a fee of \$83,950; and

WHEREAS, it is in the Town's best interest to execute an agreement for such services.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA:

SECTION 1. The Mayor or his designee is hereby authorized to execute the Agreement between the Town and CPA Architect's, Inc., for the expenditure of 2005

Disaster Recovery Initiative Funds in the total amount of \$83,950 to provide for design services for the installation of emergency generators for Essential Public Facilities Program.

SECTION 2. This Resolution shall take effect immediately upon its passage and adoption.

PASSED AND ADOPTED THIS _____ DAY OF _____, 2009.

MAYOR/COUNCIL MEMBER

ATTEST:

TOWN CLERK

APPROVED THIS _____ DAY OF _____, 2009.

AGREEMENT

between

TOWN OF DAVIE

And

CPZ ARCHITECT'S, INC.

for

**2005 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) DISASTER
RECOVERY INITIATIVE (DRI) FUNDS TO PROVIDE DESIGN SERVICES**

UNDER

**THE TOWN'S INSTALLATION OF GENERATORS AT ESSENTIAL PUBLIC
FACILITIES PROGRAM**

IN THE AMOUNT \$83,950

AGREEMENT
between
TOWN OF DAVIE
and
CPA ARCHITECT'S, INC.
for
2005 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG)
DISASTER RECOVERY INITIATIVE (DRI) FUNDS TO PROVIDE DESIGN
SREVICES UNDER
THE TOWN'S INSTALLATION OF GENERATORS AT ESSENTIAL PUBLIC
FACILITIES PROGRAM
IN THE AMOUNT \$83,950

This Agreement is entered into by and between the TOWN OF DAVIE ("TOWN"), a municipal corporation of the State of Florida, and CPZ ARCHITECT'S, INC., a for profit corporation organized under the laws of the state of Florida.

WITNESSETH, that, for and in consideration of the mutual terms and conditions, promises, covenants and payments, the Parties agree as follows:

ARTICLE 1 - DEFINITIONS AND IDENTIFICATIONS

For the purposes of this Agreement and the various covenants, conditions, terms and provisions which follow, the definitions and identifications set forth below are assumed to be true and correct and are agreed upon by the Parties.

- 1.1 **American Disability Act (ADA):** The ADA policy and procedures promulgated by Federal Law, Section 503 and 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 adopted by Broward County.
- 1.2 **Broward County Community Development Block Grant Program:** The Community Development Program applied for by Broward County and awarded by the United States Department of Housing and Urban Development as authorized pursuant to Title 1, Housing and Community Development Act of 1974, Public Law 93-383 as amended.

- 1.3 **CDBG DRI Funds:** Community Development Block Grant Disaster Recovery Initiative (DRI) Funds; the monies provided by Broward County.
- 1.4 **Consolidated Plan:** Document submitted to HUD for the CDBG, ESGP, DRI, etc. Programs that serves as the planning document (comprehensive housing affordability strategy and community development plan) of the jurisdiction and an application for funding under any of the Community Planning and Development formula grant programs, which is prepared in accordance with the process prescribed in 24 CFR Part 91.
- 1.5 **Contract Administrator:** Whenever the term contract administrator is used herein it is intended to mean the Housing and Community Development Director or her designee. In the administration of this contract as contrasted with matters of policy, all parties may rely upon instructions or determinations made by the Contract Administrator.
- 1.6 **County:** Broward County, Florida, a political subdivision of the State of Florida
- 1.7 **DCA:** Florida Department of Community Affairs
- 1.8 **HUD:** United States Department of Housing and Urban Development
- 1.9 **Income Eligible Families:** Very low income and low income families.
- 1.10 **Low Income:** one (1) or more natural persons or a family (including students) that have a total Annual Anticipated Gross Income for the household that does not exceed eighty percent (80%) of the median annual income adjusted for family size for households within the metropolitan statistical area (MSA), Broward County, or the non-metropolitan median for the State, whichever is greater.
- 1.11 **Project:** the project set forth in Article 3 hereof, and Attachment “A” Scope of Work/Project Description.
- 1.12 **Rule of DCA, Division of Housing and Community Development:** Rule No: 9BER06-1 F.A.C. Community Development Block Grant Disaster Recovery Funding.
- 1.13 **Rule and Regulations of HUD:** 24 CFR Part 570, “Community Development Block Grant Regulations”, 24 CFR Part 85, “Administrative Requirement for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Government”; OMB Circular A-133, “Audits of State and Local Government,” copies of which are incorporated herein by reference
- 1.14 **Rules and Regulations of HUD Involving Waivers and Alternative Requirements:** waiver and alternative requirements applicable to the CDBG Disaster Recovery Grant to the State of Florida, as published in the Federal Register, Vol. 71, No. 168 (August 30, 2006)

- 1.15 **Project:** Community Development Services for 2005 Disaster Recovery Initiative (DRI) funds for Davie's Generators for Essential Public Facilities Program.
- 1.16 **Contractor/Sub-Recipient:** CPZ ARCHITECT'S, INC.
- 1.17 **Very Low-Income:** one (1) or more natural persons or a family, (including students), that have a total Annual Anticipated Gross Income for the household that does not exceed Fifty percent (50%) of the median family income for the area, as determined by HUD with adjustments for smaller and larger families.

ARTICLE 2 - PREAMBLE

In order to establish the background, context and frame of reference for this Agreement and to generally express the objectives and intentions of the respective Parties, the following statements, representations and explanations shall be accepted as predicates for the undertakings and commitments included within the provisions which follow and may be relied upon by the Parties as essential elements of the mutual considerations upon which this Agreement is based.

- 2.1 Title I of the Housing and Community Development Act of 1974, P.L. 93-383, consolidated several existing categorical programs for community development into a single program of Community Development Block Grant (CDBG) for the purpose of allowing local discretion as to the determination of needs and priorities for a community development program. The needs and priorities of community development in Broward County were determined through consultation with representatives of the community participating in the Broward County CDBG Program.
- 2.2 The State of Florida is prioritizing housing recovery with the Disaster Recovery Initiative (DRI) funds, and the allocation methodology was based on a scoring process using FEMA housing damage estimates, and targets funding to the "hardest hit" areas. The DCA coordinated with the Housing Finance Corporation and the Governor's Office to compile damage assessment data relating to Hurricane Wilma.

Directing funding to the "hardest hit" areas ensures that counties with the greatest disaster recovery housing needs are targeted for funding in amounts adequate to make a significant impact in the severity of local circumstances. The scoring mechanism has taken four (4) indicators into consideration: Percentage of units damaged in each County (based on verified FEMA inspections); Percentage of the State total destroyed units in each County (again, based on verified FEMA inspections); Percentage of a County damaged units attributed to households with income up to \$30,000, to measure level of low income needs; and Percentage of the State's total temporary units that were placed in each County.

- 2.3 Pursuant to Rule No. 9BER06-1 F.A.C. "Community Development Block Grant

Disaster Recovery Initiative (DRI) Funding and, 24 C.F.R. 570.200 (a) and 570.301 of the Rules and Regulations of HUD including the Waivers and Alternative Requirements as stated in Section 1.13 of this Agreement, the Project was included in the Broward County Community Development submission to DCA, as amended. It was determined that the Town of Davie's Generator's for Essential Public Facilities Program, funded under this project, will address one (1) or more of the following (3) national objectives:

2.3.1 Activities benefiting low and moderate (L/M) Income Persons are the following:

- a. L/M Income Area Benefit Activities;
- b. L/M Income Limited Clientele Activities;
- c. L/M Income Housing Activities; and
- d. L/M Income Creation or Retention Activities

2.4 The TOWN desires to disburse funds to CPZ ARCHITECT'S, INC., However, TOWN must obtain assurances from CPZ ARCHITECT'S, INC., so assures TOWN, that CPZ ARCHITECT'S, INC., will comply with Florida statutes, rules and regulations and applicable TOWN codes and regulations to the work and services to be provided under this Agreement and the Consolidated Plan, as a condition precedent to the release of such funds.

ARTICLE 3 – PROJECT: GENERATORS FOR ESSENTIAL PUBLIC FACILITIES

3.1 CPZ ARCHITECT'S, INC., agrees to provide services for the implementation of the Disaster Recovery Initiative (DRI) Project consistent with the General Scope of Services specifically set forth in Exhibit "A," and Exhibit "B" attached and by this reference made a part of this Agreement. Additionally, the CPZ ARCHITECT'S, INC., shall abide by, and comply with the requirements contained in the DCA Exhibit 4 entitled "Florida Department of Community Affairs 2005 Disaster Relief Construction Contracts Supplemental Conditions" herein made a part of this Agreement by Reference.

CPZ ARCHITECT'S, INC., agrees to implement the General Scope of Services immediately upon TOWN'S notice, and shall provide the agreed services for the duration of this Agreement's term.

3.2 CPZ ARCHITECT'S, INC., agrees that funds received will only be used to provide design services.

3.3 CPZ ARCHITECT'S, INC., agrees that the TOWN will carry out periodic monitoring and evaluation activities as determined necessary by the TOWN. Such

evaluation will be based on the terms of this Agreement, comparisons of planned versus actual progress relating to Project(s) scheduling, budget, in-kind contributions and output measures. Upon request CPZ ARCHITECT'S, INC., agrees to furnish to the TOWN or its designee, such records and information, including CPZ ARCHITECT'S, INC., shall submit quarterly and final reports, and at other times upon the request of the TOWN.

ARTICLE 4 - TERM OF AGREEMENT

This Agreement shall commence upon full execution by both Parties and shall end on July 31, 2009, unless terminated earlier as provided for herein.

ARTICLE 5 - FUNDING AND METHOD OF PAYMENT AND PROVISION RELATING

ARTICLE 5 - FUNDING AND METHOD OF PAYMENT AND PROVISION RELATING TO THE USE OF THE FUNDS

- 5.1 The maximum amount payable by TOWN under this agreement shall be Seven Hundred Eighty Nine Thousand Seven Hundred Forty One and 00/100 dollars (\$789,741). CPZ ARCHITECT'S, INC., shall be permitted to utilize not more than Eighty-Three Thousand Nine Hundred Fifty and 00/100 dollars (\$83,950) for Design, Permit, Bidding and Construction Administration Fees. Such service delivery costs shall be deducted from the \$741,789 maximum amount payable as hereinabove provided.
- 5.2 CPZ ARCHITECT'S, INC., shall provide TOWN with an executed original of any contracts authorizing the work to be done on the Project.
- 5.3 CPZ ARCHITECT'S, INC., shall submit a certified copy of the purchase order authorizing the services for which it is invoicing.
- 5.4 CPZ ARCHITECT'S, INC., shall submit a certified copy of the contractor's invoice stating the services rendered and the date the services were rendered.
- 5.5 CPZ ARCHITECT'S, INC., or the authorized representative shall certify that the work that is being invoiced has been completed.
- 5.6 CPZ ARCHITECT'S, INC., shall disclose to TOWN any and all third party funding, whether public or private, for the Project. No TOWN funding shall be used to supplant existing third party funding.
- 5.7 Upon receipt of invoices, reports and other materials, the TOWN shall review such bid awards, contract, reports and invoices to determine whether the items invoiced have been completed and that the invoiced items are sufficient for

payment.

- 5.8 CPZ ARCHITECT'S, INC., agrees to complete the design services within the term of this Agreement as provided in Article 4. All funds not expended within the term of this Agreement shall remain in the custody and control of the TOWN or BROWARD COUNTY.

ARTICLE 6 - ASSURANCE

- 6.1 CPZ ARCHITECT'S, INC., agrees to comply with all applicable Federal, State, County and Local laws, ordinances, and codes and regulations, including but not limited to 24 CFR 24 Part 92, as may be amended from time to time. Any conflict or inconsistency between the above Federal, State, or County guidelines or regulations, this Agreement shall be resolved in favor of the more restrictive guidelines or regulations.
- 6.2 CPZ ARCHITECT'S, INC., agrees to act in accordance with Title VI of the Civil Rights Act of 1964 (P.L. 88-352), which states that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which SUB-RECIPIENT receives State financial assistance and will immediately take any measures necessary to effectuate this Agreement.
- 6.3 CPZ ARCHITECT'S, INC., agrees, if applicable, to inform affected persons of the benefits, policies, and procedures provided for under CDBG regulations.
- 6.4 CPZ ARCHITECT'S, INC., agrees to establish safeguards to prohibit employees from using positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business or other ties.
- 6.5 CPZ ARCHITECT'S, INC., agrees further that it shall be bound by these standard terms and conditions contained in this Agreement and such other rules, regulations or requirements as TOWN may reasonably impose, in addition to the aforementioned assurances provided at, or subsequent, to the execution of this Agreement by the Parties.
- 6.6 CPZ ARCHITECT'S, INC., agrees to act in accordance with Section 503 and 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 in addressing the problem of discrimination against individuals with disabilities in such areas as employment, housing, public accommodations, education, and transportation.
- 6.7 CPZ ARCHITECT'S, INC., shall comply with Title I and Title II of the Americans with Disabilities Act regarding nondiscrimination on the basis of disability in employment and in State and local government services, in the

course of providing any services funded in whole or in part by TOWN.

ARTICLE 7 - FINANCIAL RESPONSIBILITY

- 7.1 CPZ ARCHITECT'S, INC., gives TOWN or their authorized representative, access to and the right to examine all records, books, papers, or documents relating to the performance of this Agreement.
- 7.2 CPZ ARCHITECT'S, INC., agrees that if it or its subcontractors have caused any funds to be expended in violation of this Agreement, CPZ ARCHITECT'S, INC., shall be responsible to refund such money in full to TOWN, and if this Agreement is still in force, any subsequent request for payment shall be withheld by TOWN until paid.
- 7.3 CPZ ARCHITECT'S, INC., agrees and understands that all funding authorization through CDBG DRI FUNDS shall be used only for eligible activities specifically outlined in this Agreement. CPZ ARCHITECT'S, INC., shall demonstrate significant material progress within the timetable in Exhibit "B", attached and by reference made a part of this Agreement.
- 7.4 In the event CPZ ARCHITECT'S, INC., does not materially progress to accomplish the General Scope of Services under this Agreement, failing to evidence or commence within this Agreement's term, the remaining balance of funds established for CPZ ARCHITECT'S, INC., shall revert to TOWN as provided in this Agreement.
- 7.5 CPZ ARCHITECT'S, INC., agrees to submit all Invoices for CDBG DRI funds in accordance with the terms and conditions of this Agreement and any rules and regulations incorporated herein.
- 7.6 CPZ ARCHITECT'S, INC., shall have an adequate financial system and internal fiscal controls in accordance with TOWN requirements.

ARTICLE 8 - INDEMNIFICATION AND INSURANCE

- 8.1 CPZ ARCHITECT'S, INC., shall indemnify and hold the TOWN harmless against any and all liability arising from CPZ ARCHITECT'S, INC., activities related to providing services as defined by this Agreement in Exhibit "A" attached hereto.
- 8.2 CPZ ARCHITECT'S, INC., shall maintain throughout the term of this Agreement any and all applicable insurance required by Florida law and shall furnish to the TOWN written verification of such insurance upon request by the TOWN.

ARTICLE 9 - TERMINATION

- 9.3 This Agreement shall commence upon execution by all parties, and shall end on

April 1, 2009 unless terminated earlier pursuant to the terms of this Agreement.

ARTICLE 10 - SUSPENSION OF PAYMENTS

The Parties agree that the following events are sufficient cause for suspension of payments. Such events include, but are not limited to:

- 10.1 Ineligible use of CDBG Disaster Recovery Initiative (DRI) Funds; or
- 10.2 Submittal of incorrect, incomplete or fraudulent reports in any material respect.

ARTICLE 10a – NOTICE

Whenever either party desires to give notice to the other, such notice must be in writing, sent by certified United States Mail, postage prepaid, return receipt requested, or by hand-delivery with a request for a written receipt of acknowledgement of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present, the Parties designate the following:

FOR TOWN:

Giovanni Moss, Acting Director
Housing and Community Development
4700 Southwest 64th Avenue, Suite D
Davie, Florida 33314

FOR CPZ ARCHITECT'S, INC.:

Chris P. Zimmerman, President
CPZ Architect's, Inc.
4316 West Broward Boulevard
Plantation, Florida 33317

ARTICLE 11 - MISCELLANEOUS

- 11.1 NONDISCRIMINATION, EQUAL EMPLOYMENT OPPORTUNITY, AND AMERICANS WITH DISABILITIES ACT. CPZ ARCHITECT'S, INC., shall not unlawfully discriminate against any person in its operations and activities or in its use or expenditure of funds in fulfilling its obligations under this

Agreement. SUB-RECIPIENT shall affirmatively comply with all applicable provisions of the Americans with Disabilities Act (ADA) in the course of providing any services funded by TOWN, including Titles I and II of the ADA (regarding nondiscrimination on the basis of disability), and all applicable regulations, guidelines, and standards. In addition, CPZ ARCHITECT'S, INC., shall take affirmative steps to ensure nondiscrimination in employment against disabled persons. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay, other forms of compensation, terms and conditions of employment, training (including apprenticeship), and accessibility. CPZ ARCHITECT'S, INC.'S decisions regarding the delivery of services under this Agreement shall be made without regard to or consideration of race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation, or any other factor which cannot be lawfully used as a basis for service delivery.

- 11.2 INDEPENDENT CONTRACTOR. CPZ ARCHITECT'S, INC., is an independent contractor under this Agreement. Services provided by CPZ ARCHITECT'S, INC., shall be performed by employees of CPZ ARCHITECT'S, INC., subject to supervision by CPZ ARCHITECT'S, INC., and shall not be deemed officers, employees, or agents of TOWN Personnel policies, tax responsibilities, social security and health insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to services rendered under this Agreement shall be those of CPZ ARCHITECT'S, INC., which policies of CPZ ARCHITECT'S, INC., shall not conflict with TOWN or State of Florida policies, rules or regulations relating to the use of these funds provided for under this Agreement.
- 11.3 PRIOR AGREEMENTS SUPERSEDED. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to these matters; and, the Parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms shall be predicated upon any prior representations or agreements whether oral or written.
- 11.4 AMENDMENTS. TOWN may, in its discretion, amend this Agreement to conform to changes in Federal, State, Local, County and/or CDBG DRI guidelines, directives, and objectives. Such amendments shall be incorporated by written amendment as a part of this Agreement and shall be subject to approval of the Town Council, that change the term of the Agreement, reduce the funding, or change the Project, so long as the Project consists of eligible activities under 24 CFR Part 92. Except for the provisions as set forth herein, no modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

- 11.5 ASSIGNMENT. CPZ ARCHITECT'S, INC., shall not transfer or assign the performance of services called for in this Agreement.
- 11.6 REPORTS, PLANS AND OTHER AGREEMENTS. All reports, plans, surveys, Information, documents, maps and other data procedures developed, prepared, assembled, or completed by CPZ ARCHITECT'S, INC., for the purposes of this Agreement shall become the property of TOWN without restriction, reservation or limitation of their use and shall be made available by CPZ ARCHITECT'S, INC., at any time upon request by TOWN. Upon completion of all work contemplated under this Agreement, copies of all of the above data shall be delivered to the Contract Administrator.
- 11.7 CONFLICT OF INTEREST. CPZ ARCHITECT'S, INC., covenants that no person who presently exercises any functions or responsibilities in connection with the Agreement or any individual has any personal financial interest, and for one (1) year following Project completion or Agreement's term, whichever is later. Any possible conflicting interest on the part of CPZ ARCHITECT'S, INC., its employees, or agents, shall be disclosed in writing to TOWN.
- 11.8 CONFLICTS. Neither CPZ ARCHITECT'S, INC., nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with the CPZ ARCHITECT'S, INC., loyal and conscientious exercise of judgment related to its performance under this Agreement. CPZ ARCHITECT'S, INC., agrees that none of its employees shall, during the term of this Agreement, serve as an adverse or hostile witness against TOWN in any legal or administrative proceeding in which he or she is not a party, unless compelled by court process, nor shall such persons give sworn testimony or issue a report or writing, as an expression of his or her opinion, which is adverse or prejudicial to the interests of TOWN in any such pending or threatened legal or administrative proceeding. The limitations of this section shall not preclude such persons from representing themselves in any action or in any administrative or legal proceeding regarding this Agreement. In the event CPZ ARCHITECT'S, INC., is permitted to utilize subcontractors to perform any services required by this Agreement, CPZ ARCHITECT'S, INC., agrees to prohibit such subcontractors, by written contract, from having any conflicts as within the meaning of this section.
- 11.9 EXECUTION. This document shall be executed in three (3) counterparts, each of which shall be deemed to be an original.
- 11.10 CHOICE OF LAW; WAIVER OF JURY TRIAL. Any controversies or legal problems arising out of this transaction and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the Seventeenth Judicial Circuit of Broward County, Florida, the venue sites, and shall be governed by the laws of the State of Florida. To encourage prompt and equitable resolution of any litigation that may arise, each Party waives any rights it may have to a trial by jury of any such litigation.

11.11 **THIRD PARTY BENEFICIARIES.** Neither CPZ ARCHITECT'S, INC., nor TOWN intends to directly or substantially benefit a third party by this Agreement, except the Hurricane Victim, whose property is being improved. Notwithstanding that exception, the Parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them based upon this Agreement. The Parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Agreement, except as provided herein.

IN WITNESS WHEREOF, the TOWN OF DAVIE and CPZ ARCHITECT'S, INC., have executed this agreement the day and year first above written.

TOWN OF DAVIE

ATTEST:

BY: _____
Mayor/Council Member

Russell Muniz, CRM, City Clerk

State of Florida
County of Broward

The Foregoing instrument was acknowledged before me, the undersigned Notary Public in and for the State of Florida, on this, the ____ day of _____, 2008 by Russell Muniz, CRM, City Clerk and Tom Truex, Mayor, respectively.

Notary Public, State of Florida

NOTARY PUBLIC
SEAL OF OFFICE

Printed, typed or stamped name of Notary
Public exactly as commissioned

Individuals who signed are personally known: no identification produced.

Witness

CPZ Architect's, Inc.

By: _____

Print Name:

Title: _____

State of _____
County of _____

On this, the ____ day of _____, 2009, before me, the undersigned Notary Public of State of _____, the foregoing instrument was acknowledged by _____ (name of corporate officer), _____ (title), of _____ (name of corporation), a _____ (state of corporation) corporation, on behalf of the corporation.

WITNESS my hand
And official seal

Notary Public, State of Florida

Printed, typed or stamped name of Notary Public exactly as commissioned

Personally known to me or produced identification

EXHIBIT A

General Scope of Services

Generators for Essential Public Facilities: Provide Architectural/Engineering Design Services, i.e. final Construction Documents, Bidding and Construction Administration Services for installation of new Emergency Generators at below specified locations within the Town of Davie as follow:

1. Fire and Publics Works Administration Building
2. Davie Neighborhood Service Center (One Stop Shop) Building
3. Ivanhoe Fire Station
4. Pine Island Park Multi-Purpose Building
5. Town Hall Building "C"- Contingent on funds available after completion of the above four (4) locations

Scope of Services: The services shall consist of the following:

- Visit and investigate the project site(s) as required to complete the work. Electrical
- Engineer shall conduct field visit to review the existing electrical Service characteristics.
- Coordinate and order soil testing for the sites where the Emergency Generators are to be installed. Soil borings are not required for the Fire and Public Works Buildings, since this is new construction and there are reports from the newly constructed buildings.
- Prepare separate sets of Architectural and Electrical Construction drawings for each of the sites. There are a total four (4) sites, with a possibility of an additional site for possible total of five (5) sites.
- Architect shall prepare the structural drawings for each generator slab. The design shall be reviewed by a Structural Engineer.
- Architect shall show minimal landscaping if required by the Davie Building, Zoning or Planning Departments. Architect shall indicate a general note regarding relocation of the existing irrigation system.
- Project specifications shall be shown on the drawings. A "General Condition" Specification shall be produced for bidding and administration purposes.
- Architect shall administer the bidding phase at their office. All four (4) projects shall be bid as one project. The Town Hall project shall be included as an alternative additional project.
- Assist the Town of Davie during the bidding review of bids and selection of a General Contractor.
- Assist in the permitting process by responding to Building Department comments. Permit processing, tracking and all submittals shall be by others.
- Provide Administration of Construction Contract Services including shop drawings review, responses to RFIs and Application for Payment review. Construction Administration will be billed at the hourly rates listed below.

Compensation:

Compensation for Architectural and Engineering Services shall be on a stipulated basis, and in accordance with CPZ Architect's, Inc., General Contract Conditions, as follows;

- A. Total Design, Permit Bidding and Construction Administration Fees - \$83,950
- B. Reimbursable expenses will be billed at actual cost plus 10% (ten percent) and will include the following:
 - 1. Reproductions and CADD Plotting
 - 2. Fees paid to Municipalities
 - 3. Renderings
- C. Owner Provided Items:
 - 1. Existing Building Drawings
 - 2. FPL Bills for the last 12 months for each location
- D. Additional Services **not** included:
 - 1. Surveying if required
 - 2. Site Plan Process
 - 3. Attendance at Community and Public Meetings
- E. Compensation for additional architectural/engineering services not included in Paragraphs A, B, C, D & E shall be computed on a per hour basis as follows:
 - 1. Project Principal \$150
 - 2. Senior Project Management \$135
 - 3. Project Manager \$125
 - 4. Architectural Technician \$100
 - 5. Computer Draftsperson \$ 75
 - 6. Administrative Support \$ 75
 - 7. Consultants (Structural, Mechanical, Electrical, Engineers, etc.) to be reimbursed at cost billed to Architect.

Exclusions:

The following items are excluded :

- 1. Preparation of As-Built Drawings
- 2. Site paving and drainage design
- 3. All off-site improvements to bring utilities to the existing building such as water, sewer, gas, and fire service
- 4. Landscaping and irrigation system design
- 5. Environmental services
- 6. Interior design services
- 7. Energy Calculations for lighting
- 8. Cost Estimating

Justification: After Hurricane Wilma in 2005, many essential public facilities were without power. This situation left many Davie residents without proper fire and safety protection. In addition, it caused a hardship on the Town of Davie to adequately provide fire, life safety and quick response recovery services. As a result many Davie residents were left in peril of health and life safety services, such as fire response. This program will provide emergency generators to provide electrical power for fire, life safety, and other essential public facilities to secure the safety and well being of all Town of Davie residents during a catastrophic situation.

Scope of Services: It is proposed that CPA Architect's, Inc., shall provide design services for five (5) essential buildings that will be equipped with Emergency Generators to provide electrical power to essential public facilities in the event of a catastrophic situation occurring in the Town of Davie.

Exhibit B

Project Schedule/Timeline Table

The table below lists the main work tasks required to complete project objectives before the term of the agreement expires.

Work Task	Start-Up Date	Date of Completion
Complete Project Design	January 22, 2009	February 23, 2009
Secure Contract Services	February 1, 2009	February 23, 2009
Complete Installation of Generators	March 1, 2009	July 31, 2009

December 2, 2008
Revised January 9, 2009

Town of Davie
Attn.: Mr. Keith Pursell
6591 Orange Drive
Davie, FL 33314-3999



**Re: Various Generator Installations
Design Services Proposal**

Dear Mr. Pursell:

As requested, we are pleased to offer the following fee proposal to provide Architectural/Engineering Design Services for the above referenced project.

SCOPE

To provide final Construction Documents, Bidding and Construction Administration Services for the installation of new Emergency Generators at the following locations:

1. Fire and Public Works Administration Building
2. Davie Neighborhood Services Building
3. Ivanhoe Fire Station
4. Pine Island Park Multi-Purpose Building
5. City Hall Building "C"

SERVICES

1. Visit and investigate the project site as required to complete the work. Electrical
2. Engineer will conduct field visit to review the existing electrical Service characteristics.
3. Coordinate and order soil testing for four of the five sites. Soils boring are not required for the Fire and Public Works Building, since this is new construction and we have the reports from the existing building.
4. Prepare separate sets of Architectural and Electrical Construction drawings for each of site. There are a total of five (5) sites.
5. Architect will prepare the structural drawings for each of the generator slab. The design will be reviewed by a Structural Engineer.
6. Architect will show minimal landscaping if required by the zoning department. Architect will indicate a general note regarding relocation of the existing irrigation system. A Landscape Architect has not been included in this proposal.
7. Project Specification will be show on the drawings. A General Condition Specification will be produced for bidding and administration purposes.
8. Architect will administer the bidding phase at their office. All five (5) projects will be bid as one package. The Town Hall Site will be included as an alternate.
9. Assist the owner during bidding, review of bids and selection of a General Contractor.

10. Assist in the permitting process by responding to Building Department comments. Permit processing, tracking and all submittals shall be by others.
11. Provide Administration of the Construction Contract Services including shop drawings review, responses to RFI's and Application for Payment review. Construction Administration will be billed at the hourly rates listed below. An allowance has been shown in our fee breakdown.



COMPENSATION

Compensation for Architectural and Engineering Services shall be on a stipulated basis, and in accordance with CPZ Architect's, Inc., General Contract Conditions, as follows:

- A. Total Design, Permit, Bidding and Construction Administration Fees **\$ 83,950**
See attached spreadsheet for the breakdown of our fees.
- B. Reimbursable expenses will be billed at actual cost plus 10% (ten percent) and will include the following:
 1. Reproductions and CADD Plotting
 2. Fees paid to Municipalities
 3. Renderings
- C. Owner Provided Items:
 1. Existing Building Drawings.
 2. FPL Bills for the last 12 months for each location.
- D. Additional services **NOT** included in the estimate above:
 1. Surveying if required.
 2. Site Plan Process.
 3. Attendance at Community and Public Meeting.
- E. Compensation for additional architectural/engineering services not included in Paragraphs A,B,C,D & E shall be computed on a per hour basis as follows:

1. Project Principal	\$150
2. Senior Project Manager	\$135
3. Project Manager	\$125
4. Architectural Technician	\$100
5. Computer Draftsperson	\$75
6. Administrative Support	\$75
7. Consultants (Structural, Mechanical, Electrical Engineers, etc.) to be reimbursed at cost billed to Architect.	

EXCLUSIONS

The following items are excluded from this proposal:

1. Preparation of As-Built Drawings
2. Site paving and drainage design
3. All off-site improvements to bring utilities to the existing building such as water, sewer, gas, and fire service.

4. Landscaping and irrigation system design
5. Environmental services
6. Interior design services
7. Energy Calculations for lighting.
8. Cost Estimating



Architect's, Inc.
AA #26000685

We thank you for the opportunity to offer these services. If this proposal meets with your approval, please sign this letter and return to my attention. If you have any questions, please contact me at (954) 792-8525.

Respectfully,
CPZ Architect's, Inc.

Chris P. Zimmerman, AIA
President

CPZ Architects
General Conditions, January, 2008



1. AUTHORIZATION TO PROCEED

Signing this Agreement shall be construed as authorization by CLIENT for CPZ ARCHITECTS, INC. to proceed with the Services, unless otherwise provided for in this Agreement.

Architect's, Inc.
AA #26000685

2. DIRECT & REIMBURSABLE EXPENSES

CPZ ARCHITECTS, INC.'s Direct Expenses shall be those costs incurred on or directly for the CLIENT'S Project, including but not limited to necessary transportation costs including mileage at CPZ ARCHITECTS, INC.'s current rate when its automobiles are used, meals and lodging, laboratory tests and analyses, computer services, word processing services, telephone, printing and binding charges. Reimbursement for these EXPENSES shall be on the basis of actual charges when furnished by commercial sources and on the basis of usual commercial charges when furnished by CPZ ARCHITECTS, INC. All drawing printing expenses will be billed at \$1.50 per 24"x 36" drawing sheet.

3. OUTSIDE SERVICES

When technical or professional services are furnished by an outside source, when approved by CLIENT, an additional amount of 10% shall be added to the cost of these services for CPZ ARCHITECTS, INC.'s administrative costs.

4. OPINIONS OF CONSTRUCTION COSTS

Any opinion of construction costs provided by CPZ ARCHITECTS, INC. will be on a basis of experience and judgment. Since CPZ ARCHITECTS, INC. has no control over market conditions or bidding procedures, CPZ ARCHITECTS, INC. does not warrant that bids or ultimate construction costs will not vary from these opinions of costs.

5. PROFESSIONAL STANDARDS

CPZ ARCHITECTS, INC. shall be responsible, to the level of competency presently maintained by other practicing professionals in the same type of work in CLIENT'S community, for the professional and technical soundness, accuracy, and adequacy of all design, drawings, specifications, and other work and materials furnished under this Agreement. CPZ ARCHITECTS, INC. makes no warranty, expressed or implied.

6. ADDITIONAL SERVICES

Services in addition to those specified in Scope will be provided by CPZ ARCHITECTS, INC. if authorized in writing or otherwise confirmed by CLIENT. Additional services will be paid for by CLIENT as indicated in any Letter of Proposal, Task Authorization, or such other document as deemed appropriate by CLIENT and CPZ ARCHITECTS, INC.. In the absence of an express agreement about compensation, CPZ ARCHITECTS, INC. shall be entitled to an equitable adjustment to its compensation for performing such additional services.

7. LIMITATION OF LIABILITY

CPZ ARCHITECTS, INC.'s liability to the CLIENT for any cause or combination of causes is in the aggregate, limited to an amount no greater than the fee earned under this Agreement.

8. DISPUTE RESOLUTION

All disputes arising out of this Agreement shall be mediated by the parties within a reasonable time after the first request for mediation, prior to either party filing a suit in a court of law, provided, however, that neither party shall be obligated to mediate prior to requesting injunctive relief.

9. PAYMENT – Town of Davie shall provide payment in accordance with the State of Florida Prompt payment statute.



Architect's, Inc.
AA #26000685

10. TERMINATION FOR NON-PAYMENT OF FEES

CPZ ARCHITECTS, INC. may terminate this contract by giving written notice if any CPZ ARCHITECTS, INC. invoice remains unpaid for more than 30 days. CPZ ARCHITECTS, INC.'s right to terminate this contract shall not be waived by CPZ ARCHITECTS, INC.'s continued performance during any period of investigation by CPZ ARCHITECTS, INC. to determine the reasons for CLIENT'S nonpayment.

11. TERMINATION

Either CLIENT or CPZ ARCHITECTS, INC. may terminate this Agreement by giving 30 days' written notice to the other party. In such event CLIENT shall forthwith pay CPZ ARCHITECTS, INC. in full for all work previously authorized and performed prior to effective date of termination. If no notice of termination is given, relationships and obligations created by this Agreement shall be terminated upon completion of all applicable requirements of this Agreement.

12. LEGAL EXPENSES

In the event legal action is brought by either party to enforce any of the obligations hereunder or arising out of any dispute concerning the terms and conditions hereby created, Both the CLIENT and CPZ ARCHITECTS, INC. shall be responsible for their own expenses in event the matter is settled before trial, and in the event a final judgment is issued, the losing party shall pay the prevailing party's reasonable amounts for fees, costs and expenses as may be set by the court.

13. ASSIGNMENT TO RELATED ENTITY

Notwithstanding anything in this Agreement to the contrary, in the event CPZ ARCHITECTS, INC. is not qualified and licensed in the relevant jurisdiction to provide any services required hereunder, CPZ ARCHITECTS, INC. may, without the consent of any other party, assign all or any part of its obligation to provide such services to an entity related to CPZ ARCHITECTS, INC. which is qualified and licensed to provide such services in the jurisdiction involved and which is contractually bound to CPZ ARCHITECTS, INC. to provide such services.

14. CLIENT FURNISHED INFORMATION

CPZ ARCHITECTS, INC. will consider all information supplied by the client as accurate and correct. Extra work, or work done over because of inaccurate or incorrect information supplied by the client, will be paid for as additional services.

15. CONTRACT LIMITATION

This proposal shall expire after 60 days if unsigned, and the fees indicated shall be subject to an increase. The Client also agrees by signing this proposal that CPZ ARCHITECTS, INC. hourly rate shall increased after a period of one year from the date of the contract.

16. SEVERABILITY

In case any one or more of the provisions contained in this Agreement shall be held illegal, the enforceability of the remaining provisions contained herein shall not be impaired thereby.